

UNITED STATES DISTRICT COURT

for the

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 12, 2024

SEAN F. MCAVOY, CLERK

United States of America
v.

Case No. 1:24-mj-04088-ACE

MARCELO ANTHONY BENSON

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 31, 2024 in the county of Yakima in the
Easter District of Washington, the defendant(s) violated:

Code Section

Offense Description

18 United States Code, Section
2250(a)

Failure to register as a Sex Offender

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.Jae Min Um
Complainant's signatureJae Min Um, DUSM
Printed name and title☒ Sworn to telephonically and signed electronically☐ Sworn to before me and signed in my presence.Date: 04/12/2024City and state: Yakima, WashingtonAlexander C. Ekstrom
Judge's signatureALEXANDER C. EKSTROM, U.S. Magistrate Judge
Printed name and title

AUSA: BRB

COUNTY: YAKIMA

COMPLAINT AFFIDAVIT

Jae Min Um, being first duly sworn on oath, deposes and states:

Introduction and Agent Background

1. I am a Criminal Investigator Deputy United States Marshal with the United States Marshals Service, and have been since August 2022. I am currently involved in sex offender investigations in the Eastern District of Washington. I am a graduate of the Basic Deputy U.S Marshal Integrated training at the Federal Law Enforcement Training Center in Glynco, Georgia. I have a bachelor's degree from the University of Washington in Political Science-International Security.

2. I make this affidavit in support of the criminal complaint for MARCELO ANTHONY BENSON for a violation of 18 U.S.C. § 2250(a), Failure to Register as a Sex Offender. As set forth below, there is probable cause to believe, and I do believe, that BENSON is required to register as a sex offender under the Sex Offender Registration and Notification Act (hereinafter "SORNA"), by reason of a conviction for Communication with a Minor for Immoral Purposes, in violation of RCW 9.68A.909(1), and entered, left, or resided in Indian country, and did knowingly fail to register and update a registration as required under the Sex Offender Registration and Notification Act, in violation of 18 U.S.C. § 2250(a).

3. This affidavit is submitted for the limited purpose of establishing probable cause for the criminal complaint and does not set forth all known facts

related to this matter. The information in this affidavit was ascertained during a criminal investigation that included, in part, a review of pertinent documents and records, communications with law enforcement personnel, and communications with individuals related to this matter.

Applicable Law

4. Title 18, United States Code, Section 2250(a) provides:

(a) In General. -Whoever-

(1) Is required to register under the Sex Offender Registration and Notification Act;

(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law, the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

(B) travels in interstate or foreign commerce, or enters or leaves, or resides in Indian country; and,

(3) Knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

Shall be fined under this title or imprisoned not more than 10 years, or both.

Statement of Probable Cause

5. Marcelo Anthony BENSON (hereinafter “BENSON”) is a convicted sex offender. On December 27, 2017, BENSON was convicted of Communication with a Minor for Immoral Purposes, in violation of RCW 9.68A.909(1), in Yakima County Superior Court. The Yakima County Superior Court sentenced BENSON to 364 days in jail.

6. BENSON pleaded guilty to Felon in Possession of a Firearm in violation of 18 U.S.C. § 922(g)(1) and 924(a)(2), and was sentenced to 21 months confinement followed by three years of supervised release by the U.S. District Court for the Eastern District of Washington on May 19, 2023, in Case No. 1:22-cr-02043-MKD. BENSON was released from the U.S. Bureau of Prisons (“BOP”) custody on or about January 31, 2024.

7. At the time of his release from BOP custody on or about January 31, 2024, BENSON acknowledged his requirement to register as a sex offender in any state in which he resides, is employed, carries on a vocation, or is a student on the Federal Bureau of Prisons BP-A0714 Notice of Release and Arrival form. His signature is on the document, showing he acknowledged his requirement to register as a sex offender.

8. On March 28, 2024, your affiant was informed by U.S. Probation Officer Kyle Mowatt that BENSON provided the U.S. Probation Office with the

following address upon his release from BOP custody: 130 Winaway Road in Toppenish, Washington, which is located within the exterior boundaries of the Yakama Indian Reservation, in Indian country.

9. On March 28, 2024, your affiant contacted Yakama Nation Police Department Lt. Micah Maldonado, who informed me that BENSON had never registered with the Yakama Nation Sex Offender Registration Program. Your affiant also contacted the Yakima County Sheriff's Office Sex Offender coordinator Allane Swan on March 28, 2024, who informed me that BENSON had never registered with the Yakama County Sheriff's Office as a sex offender. Following his release from BOP custody on or about January 31, 2024, BENSON failed to register with either the Yakima County Sheriff's Office or the Yakama Nation Tribal Sexual Offender Program as required by SORNA, and it appears that BENSON has never registered with either agency following his above-referenced Yakima County Superior Court conviction.

10. BENSON was arrested on April 4, 2024, for a supervised release violation for failing to report to his probation officer after his release from BOP custody. BENSON was arrested at 381 Osbourne Street, Wapato, Washington, which is located within the exterior boundaries of the Yakama Indian Reservation, in Indian country. Your affiant and U.S. Probation Officer Mowatt located BENSON in Wapato, Washington, after an individual associated with the

previously provided Toppenish, Washington, address indicated that BENSON was staying in Wapato, Washington, and not the Toppenish, Washington, address.

Conclusion

11. Based on the above information, I believe BENSON: is required to register as a sex offender under SORNA; is a sex offender by reason of a previous Washington State Superior Court conviction; entered, left or resided in Indian country; and, has knowingly failed to register as a sex offender in the Eastern District of Washington. As such, I believe that there is probable cause that BENSON knowingly failed to register as a sex offender in violation of 18 U.S.C. § 2250(a), and I respectfully request this Court approve the requested criminal complaint.

12. Assistant United States Attorney (AUSA) Bree R. Black Horse reviewed this affidavit.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Jae Min Um, Deputy U.S. Marshal

SWORN TO telephonically and subscribed electronically this 12 day of April, 2024.



Alexander C. Ekstrom
United States Magistrate Judge

